

KANSAS QUESTION.

II

DELIVERED IN THE SENATE MAY 2, 1856.

The Senate, as in committee of the whole, having under consideration the bill (S. No. 172) to authorize the people of the Territory of Kansas to form a constitution and State government, and to provide for their admission into the Union when they have the requisite population—

Mr. BENJAMIN said: Mr. President, this is the third time within the short history of our republic that its internal peace has been imperilled. Thrice already has the bond which binds together the different States of the confederacy been menaced with disruption; and on each occasion the disturbing element has been the same. This Union, which, at the date of the adoption of the constitution, was formed of one non-slaveholding and twelve slaveholding States, now presents an array of sixteen of the former and only fifteen of the latter. Causes, which are too obvious to require enumeration, have operated since the foundation of the government in producing the abolition of slavery in the northern portion of the country.

On the first of these occasions, Mr. President, in 1820, more than thirty years after the formation of the Union, the North for the first time endeavored to secure the admission of Maine into the Union, while at the same time it attempted to exclude Missouri—and that, too, in defiance of the provisions of the treaty of cession of 1803, the words of which are that "the said Territory shall be admitted into the Union at the earliest possible period consistently with the principles of the federal constitution." The history of that controversy has been too frequently and too thoroughly discussed on this floor within the last two years to permit me to dwell upon it at any length. I must, however, be permitted to express my regret that the eminent men who had charge of the interests of the South at that time ever yielded their consent to a compromise which, in my judgment, is contrary to the true theory of the constitution, irreconcilable with a just regard to the principle of equality amongst the States, and which, as a mere measure of policy, was totally inadequate to the end proposed—of securing perfect harmony upon the subject of a division between the different sections of the confederacy of that territory which was common to all. It never answered its purpose—not for a single year. Scarcely had it been passed when it was broken by nearly every northern State. Whenever appealed to by the South, it was scorned, derided, and repudiated. When, in 1850, we proposed the extension of its principles to the territory acquired in the Mexican war, our proposition was contumeliously rejected. When, in 1854, we finally agreed to repeal in terms that which for more than a quarter of a century had ceased to have any active effect, it was made use of as a subject of vituperation towards the South. We were accused of violating "plighted faith"—with very much the same regard for truth as has recently been displayed on this floor in those mendacious tales which have been brought to us about the state of affairs in Kansas.

I repeat, Mr. President, the policy of seeking for some other compromise than those which are contained in the constitution was a mistaken policy on the part of the South. The condition of the country this day shows the fact. I thank Heaven that the South has at length become aware of this mistake. She has no longer any compromises to offer or to accept. She looks to those contained in the constitution itself. By them she will live; to them she will adhere; and those provisions which are contained in it shall be violated to her wrong, then she will calmly and resolutely withdraw from a compact, all the obligations of which she is expected scrupulously to fulfil, from all the benefits of which she is ignominiously excluded.

Upon each of these occasions long debate has taken place upon the question of the power of Congress to exclude slavery from the Territories by law. The discussion on this subject has been so full and thorough, every aspect in which it is capable of being presented has been so minutely examined, that I cannot detain the Senate by a further discussion of it. This, however, I will say, that all admit that the power to legislate for the Territories is nowhere given in express terms in the constitution. It is true, sir, that the honorable senator from New Hampshire [Mr. HALE] who opened the discussion on this subject, did say something about that power being contained in a clause of the constitution which vests in Congress authority to dispose of the public property. The argument on that point, however, has been so often re-

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futed, and was on that occasion so triumphantly answered by my friend from Georgia, [Mr. Toombs,] that it is entirely unnecessary to advert to it any further. Sir, I propose to place this question on higher grounds than any reference to the mere text of the constitution. I propose to seek for its true spirit, to inquire into its true theory, to look into the condition of these States when the constitution was framed, and to see whether, from all the circumstances that surrounded the adoption of the constitution, it be possible that Congress can exercise the power to exclude slaves from the Territories.

In connexion with this subject, I desire to read a passage from the speech of the senator from New York, [Mr. Seward,] who has given currency to a fallacy which is popular, which was briefly adverted to by my friend from Alabama, [Mr. Clay,] and which I think deserving of some more extended consideration. I read this passage from that speech :

"Slavery is an outlaw under the law of nations. Still further, the constitution of the United States has expressly incorporated into itself all of the laws of comity for regulating the intercourse between independent States, which it deems proper to adopt. Whatever is forbidden expressly by the constitution is unlawful; whatever is not forbidden is lawful."

I maintain, on the contrary, that the constitution may be just as flagrantly and palpably violated by the abuse of powers expressly conceded, as by the usurpation of powers expressly prohibited. This is no novel doctrine. It obtains not only under this government—it has ever obtained in all governments in which constitutions and laws are not mere empty words. Let us take up the constitution and examine some of its ~~principles~~ ^{principles} as illustration of my meaning.

Congress shall have power "to establish post offices and post roads."

Suppose, by an increase in the number of the free States, they obtain control of the legislative and executive departments, and then proceed to appropriate the money of the government exclusively for postal facilities in those States, refusing all appropriations to the others.

It has power to "erect forts, magazines, and arsenals."

Suppose a northern majority to use the common fund of the Union for protecting its own coasts, and to refuse all appropriations for that purpose to the slaveholding States.

The President, with the advice and consent of the Senate, "shall have power to appoint ambassadors, judges of the courts, and other public officers."

Suppose all the officers of the government to be regularly and systematically selected from one section of the country which might possess a preponderating power; that every judge, collector, and postmaster required for service in the South should be selected from the North.

Can any man doubt, sir, that in any of these cases the constitution would be as clearly and shamelessly violated by such an abuse of power as it could possibly be by the usurpation of an authority not granted?

Mr. President, quite recently, across the Atlantic, in the country from which we derive most of our ideas of law and liberty, an attempt was made by the Queen to appoint to the House of Lords a single peer, with a peerage for life. The power of the Crown to appoint peers was undoubted; the ministry advised the appointment; and yet opposition was made in the House of Lords, and the proposition was advanced, maintained, and sustained, that, although the prerogative of creating peers existed, the exercise of it, by the creation of a life peerage, was an abuse, and contrary to the fundamental constitution of the kingdom. The Crown yielded, and the lords triumphed.

Sir, look at your Declaration of Independence. Upon what grounds was it that its immortal author placed the right of the people of this country to assert their independence, and to declare that for the future they would hold the people of Great Britain "enemies in war, in peace friends?" Look at the entire list of grievances. There is scarcely one of them that is the usurpation of an unconstitutional power; every one of them is the abuse of an admitted constitutional power. Upon that principle your Revolution rests; and, sir, it is not to-day, nor before a body like this, that those who represent southern interests are to be told that the question is, whether a particular power is granted by the terms of the constitution without reference to its spirit. All feel at once, sir, that the instances which I have suggested would be gross abuses, entirely contrary to that spirit. What, then, is the principle that underlies that whole compact for our common government, and which we should all instinctively feel to have been outraged by such abuses? It is, sir, the equality of the free and independent States which that instrument links together in a common bond of Union—entire, absolute, complete, unqualified equality—equality as sovereigns, equality in their rights, equality in their duties. This was the spirit that presided over the formation of the constitution; this the living spirit that breathes through every line of it; this the object professed by it of forming "a more perfect union."

"Great were the thoughts, and strong the minds,

Of those who framed in high debate

The immortal league of love that binds

Our fair, broad empire State to State."

Take away this league of love; convert it into a bond of distrust, of suspicion, or of hate; and the entire fabric which is held together by that cement will crumble to the earth, and be scattered in dishonored fragments upon the ground.

Now, sir, apply these principles to the question of the division of that territory which is common to the country. Amidst all the wild theories, the fantastic propositions, which upon this subject have been broached, I have heard no man yet contend that the territory which has been acquired by treaty, purchased by the common treasure, or conquered by the common valor of the country, is not the common property of all; and I ask you if, upon any fair construction of the rights of those States which formed this confederacy, as they are laid down in the constitution, this common territory can any more be appropriated to the exclusive use of one section of the Union than the common treasure can be employed for the exclusive service of that same section?

Sir, in every case where the framers of the constitution foresaw any temptation which could induce a majority from one section of the Union to legislate for their own exclusive advantage, they have expressly prohibited such an abuse in order to preserve equality between the States. They tell you that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." They tell you that "no tax or duty shall be laid on articles exported from any State." They tell you that "no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another." In the very preface of the instrument, in declaring its objects, you are told that it was "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare" of the land. Take it up under any aspect that you please, and no fair, no proper, no candid construction of the instrument can lead to any other conclusion than that which I have announced.

Those who are unwilling to meet the force of these principles, who find that it is impossible to refute them, endeavor to evade their application. We are told that the South is not excluded from the common territory; that we have all just the same right to go there which people from the North have; that all that is done is to say that we shall not carry a particular species of property there; and the honorable senator from Ohio, [Mr. WADE,] I remember, in a speech delivered by him on the Kansas-Nebraska bill, compared the prohibition by Congress of the introduction of slaves into the Territories to the prohibition of the introduction of spirituous liquors, or of gunpowder, or of any dangerous substance about which Congress might pass police regulations in legislating for the Territories.

Mr. President, an argument like this is as insulting to the intelligence of the people of the South as the maintenance of the proposition which it seeks to sustain would be injurious to their interests. The fallacy, to our minds, is so obvious that I believe no one has hitherto undertaken to answer it. It appears to carry its own answer. But, sir, we have been taught by sad experience that arguments, however plainly their fallacy may appear to some, are frequently efficient instruments in deceiving others. Some mischief may be done by this statement, and I propose to give it a few moments' consideration.

What is the condition of the common territory to which this argument is made to apply? It is an uncultivated waste. It is covered either by the primeval forest, or it is still carpeted by the waving grass, over which no human shadow has been cast since its dewy surface first glittered in the morning sun. It is utterly unfitted for any other human purpose than cultivation. Man could not there exist without obtaining his subsistence from the fruits of the earth. What is the condition of the South to which this argument is addressed? Almost its entire agricultural population consists of negro slaves; and this is precisely the population which it is proposed to exclude. So that we are insulted and mocked by the offer to give us our portion of the common property, coupled with a condition which makes it impossible for us to use it, and which reserves it for the exclusive use of the North; and then, when we utter some faint complaint, when we modestly suggest that this is not very fair, we are answered by "shrieks for freedom," and the people of the North have their prejudices and passions inflamed by appeals in which they are told of "southern aggressions" and of the "usurpations of the southern slave power."

Before leaving this branch of the subject, I desire to say a few words in relation to the principles contained in the Kansas-Nebraska act; not that they are necessary in my part of the country—not that the people of the South have the slightest doubt in relation to the policy or propriety of these enactments—but for the purpose of answering a disingenuous argument which has been repeatedly urged in both branches of Congress. We are told that those who advocated the passage of this act, and now sustain it, when at the North endeavor to persuade northern people that it is the best possible enactment for freedom; and that its advocates at the South tell the people of the South that it is an entire security for the right of the South; and then it is said, with some show of reason, that one side or the other has been cheated.

Mr. President, those who use that argument at the North are right; those who sustain that bill upon the grounds which I have just mentioned, at the South, are right. Neither cheats; neither is cheated. The history of the passage of that bill is familiar to us all. There was a series of propositions presented to its advocates, upon all of which they could agree save one. All agreed upon the right of a State to enter into this Union whenever it had sufficient population, and had formed a republican constitution, whether that constitution established or prohibited slavery. That provision was, therefore, inserted in the bill. All agreed that it was prejudicial to the best interests of the country that the subject of slavery should be discussed in Congress. All agreed that, whether Congress had the power or not to exclude slavery from

the Territories, it ought not to exercise it. All agreed that, if that power was owned by us, we ought to delegate it to the people whose interests were to be affected by the institutions established at home. We therefore put that into the bill.

Then came the point upon which we disagreed. Some said, as I say, Congress has no power to exclude slavery from the common territory; it cannot delegate it, and the people in the Territory cannot exercise it except at the time when they form their constitution. Others said, Congress has the power; Congress can delegate it, and the people can exercise it. Still others said—my honorable friend from Michigan [Mr. Cass] said—that the power to legislate on that subject was a power inherent in every people with whom the doctrine of self-government was anything more than an empty name. On this proposition we disagreed; and to what conclusion did we come? We said in this bill that we transferred to the people of that Territory the entire power to control, by their own legislation, their own domestic institutions, subject only to the provisions of the constitution; that we would not interfere with them; that they might do as they pleased on the subject; that the constitution alone should govern. And then, in order to provide a means by which the constitution could govern, by which that single undecided question could be determined, we of the South, conscious that we were right, the North asserting the same confidence in its own doctrines, agreed that every question touching human slavery or human freedom should be appealable to the Supreme Court of the United States for its decision.

There is the Kansas bill. Therefore, when I advocate this bill among my people at home, conscious that they share my confidence in the correctness of the principles which I here enunciated, I say to them, in all candor and sincerity, "You are safe under this bill." Let the gentlemen of the North, who profess an equal confidence in what they believe to be constitutional principles on this subject, go to the same tribunal, and follow the example which the South has ever set them, of being a law-abiding and law-observing people, and this question will then be finally settled by a tribunal from which none of us will attempt an appeal.

Strange, strange, sir, that that section of this Union which bears throughout the country the reputation of being so excitable, so passionate, so violent, is always ready to submit its claims to the decisions of the tribunals of the country; while that which is called the calm, cold, quiet, calculating North, always obeying the law, always subservient to the behests of the constitution, whenever this question of slavery arises—and this alone—appeals to Sharpe's rifles instead of courts of justice.

Mr. BUTLER. Those rifles are now better known as Beecher's Bibles.

Mr. BENJAMIN. Mr. President, is there not something significant in this? Does not the simple statement of this fact establish conclusively upon which side is the right? What man, confident of his title, ever hesitated to submit it to the Supreme Court of the United States? What man, conscious of the weakness of his pretensions, did not dread to submit those pretensions to that tribunal? Let the people of the country compare the attitude of the two sections of the confederacy on this subject, and let them draw their own inference.

The next proposition to which I wish very briefly to advert is one which emanates from the distinguished author of almost every heresy that appears on this subject. The honorable senator from New York [Mr. SEWARD] has thought proper to tell us that "slavery is an outlaw under the law of nations." Well, sir, that will be spread through the machinery of the federal post office. It is printed in your Globe. It will be read, probably, by millions of people who know nothing whatever in relation to the law of nations; but they will think that a man of the eminent reputation of the distinguished senator from New York as a lawyer and as a statesman could not possibly, before the Senate of the United States, assert a principle of the law of nations so broadly and so unqualifiedly unless it were correct. Sir, it has done its mischief, and it will do more. No such faint voice as mine can follow it to every village, to every hamlet, to every cottage to which it has spread. Still, it is not improper, as these propositions in turn are made, that in turn they should be refuted. Mine be the easy task on this one—too easy to merit the least credit.

I refer to but a single volume. This is not the place for elaborate discussion on legal questions. I therefore refer to a single work by an American author, the most recent on the law of nations in this country, and he tells us that the honorable senator from New York, when he says that slavery is an outlaw under the law of nations, has taken up and adopted a principle that Great Britain attempted to establish as the basis of her right of search for a quarter of a century—a principle which was constantly repudiated and rejected by those who managed the negotiations in behalf of this country—a principle which was put down by John Quincy Adams, who, I imagine, will scarcely be repudiated as authority upon any question touching the abolition of slavery by gentlemen identified either with the republican or abolitionist party. He tells us this not only on the faith of the negotiations between the two governments, but he proves that our government was right, not merely by citations of distinguished authors on national law, but by the adjudications of the courts of justice of the highest class abroad and at home. That has been declared to be the law by the high court of Admiralty of Great Britain; that has been declared to be the law by the court of King's Bench of Great Britain; and, finally, in our own Supreme Court that sits below us, it was held (the venerable Chief Justice Marshall delivering the opinion of the court) that slavery was not an outlaw under the law of nations; that slavery was protected by the law of nations; nay, sir, that the horrible slave trade which we have proscribed, which we have denounced as piracy in our statutes, is

protected by the law of nations. I refer the senator, if he desires to see where the authorities are collected on the subject, to Wheaton's Treatise on the Law of Nations, page 632 and following. I will, however, request our Secretary to read a passage from the decision of Chief Justice Marshall, which is copied on the 635th page.

The Secretary read the extract, as follows :

"But from the earliest times war had existed, and war conferred rights in which all had acquiesced. Among the most enlightened nations of antiquity one of these rights was that the victor might enslave the vanquished. That which was the usage of all nations could not be pronounced repugnant to the law of nations, which was certainly to be tried by the test of general usage. That which had received the assent of all must be the law of all.

"Slavery, then, had its origin in force; but as the world had agreed that it was the legitimate result of force, the state of things which was thus produced by general consent could not be pronounced unlawful.

"Throughout Christendom this harsh rule had been exploded, and war was no longer considered as giving a right to enslave captives. But this triumph had not been universal. The parties to the modern law of nations do not propagate their principles by force; and Africa had not yet adored them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves. The question, then, was, could those who had renounced this law be permitted to participate in its effects by purchasing the human beings who are its victims?

"Whatever might be the answer to this question, a jurist must search for its legal solution in those principles which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself a part, and to whose law the appeal is made. If we resort to this standard as the test of international law, the question must be considered as decided in favor of the legality of the trade. Both Europe and America embarked in it, and for nearly two centuries it was carried on without opposition and without censure. A jurist could not say that a practice thus supported was illegal, and that those engaged in it might be punished either personally or by deprivation of property."

Mr. BENJAMIN. Now, Mr. President, I oppose the authority of Chief Justice Marshall, on a question of international law, to the *dictum* of the honorable senator from New York.

It is a matter which excites the deepest interest in our minds to inquire what are the motives of this constant, cruel, unrelenting warfare which is waged by some of the people of the North against the rights of the South. What interest have they in the question whether or not a slave shall be moved from Louisiana or South Carolina to Kansas? Regard for the slave is not the motive; that is clear. That was once used as a pretext, but having lost its force it is now abandoned from very shame. No man proposes to increase the number of slaves. No man can pretend for an instant that it is hurtful to the slave that his master should have the choice of leaving one location, where his fortunes are adverse, and seeking another where they may be favorable, because on that may depend the physical comfort and ample supply of necessities for the slave. The motive is not the interest of the slave at all.

Why, sir, what better proof do we want than this fact? This very faction—this very Kansas faction, of which certain gentlemen on this floor are the exclusive supporters and friends, and about which they are now making all the noise that is made in the country—has done, and is now doing avowedly, everything within its power to prevent the freedom of slaves. What has it in its power? The only thing that it can possibly do towards securing the freedom of the slave is to offer a refuge for the emancipated slave. Everybody knows that one of the chief obstacles to be overcome in the South towards the emancipation of the slave is to find a refuge for him. Here is a virgin soil, and there are tens of thousands of acres of ground for every individual who can be found within its limits. It wants nothing so much as population. The South has slaves, and many southern slaveholders have slaves that they are ready to emancipate; but the southern laws think it dangerous that the two classes of colored population should be kept together. Yet this very Kansas faction, which could offer a refuge to those liberated and emancipated slaves, uses the very first instant when it can evince its intentions by the passage of an enactment, to pass a constitutional provision prohibiting liberated slaves from entering within its borders. Conduct like this is ample for the purpose of evincing the motives which actuate the minds of men who are guilty of it. I say, once more, on the question of the interest which the North has on this subject, that it is not regard to the slave. That is proven; no man can deny it. Now that that pretext has been abandoned, what are the others?

Sir, if this were not a very grave subject, it would be amusing to listen to the frivolous pretexts which have been put forth by senators on this floor to justify their conduct towards the South. The honorable senator from New Hampshire [Mr. HALE] has a tender conscience, and is very much exercised for fear that the people who will live one hundred years hence in Kansas may look back and find that he did not help to keep slavery out, and will curse his memory! There is one motive. The honorable senator who sits alongside of him, the senator from Iowa, [Mr. HARLAN,] can by no possibility consent to degrade himself by working in a State where slaves work. That may, as he says, be thought by us to be sickly sentimentality, but still it is a deep-seated feeling in his bosom. He would consider himself degraded

if he put his hand to any work in any region of country where a slave was working! There is another pretext for waging this war on the South; whilst the honorable senator from Massachusetts [Mr. Wilson] contents himself with a general shriek for "freedom over God's heritage," forgetting, overlooking the information which he ought to have given the Senate, how his particular desire for "freedom over God's heritage" was to be gratified, or its gratification impeded by the removal of a slave from one State to another.

The flimsy nature of these pretexts suffices to show that there is another motive behind; and that motive has been avowed in the other House much more candidly than in this. The motive is a struggle for power—for political power—for the chance of subverting that equality of the States to which I have adverted; nor for power in the other branch, because whether a slave is in Louisiana or in Kansas, he is equally entitled to be counted in the basis of federal representation, and the number of federal representatives would be the same. The struggle is for power here, on this floor. It was triumphantly avowed, the other day, by the senator from Massachusetts. He told us, with a smile of conscious superiority which is so becoming him, that the North would take this matter into its own hands; it would thin out around here, and send men who would follow his lead, and show the country what a true democratic administration would be. Ay, sir, it is a struggle for power in this body; and for what purpose? My honorable friend from Alabama, [Mr. CLAY,] in the masterly speech which he delivered the other day in the Senate, drew back the curtain behind which these conspirators are endeavoring to sap the very foundations of the constitution of their country. The object is to attain such power as shall put these parties in possession of sufficient representation, in both branches of Congress, to change the federal constitution, and to deprive the South of that representation which is already inadequate to protect her rights. When that shall have been done—when she is reduced to a feeble minority, utterly incompetent to move hand or foot, and bound subserviently to the will of the North—then will the last act of the drama be played: and then will the abolition sentiments which they hide now, but which they entertain in their heart of hearts, be developed to the country, and ruin and desolation spread over fifteen of the States of this Union. That is the object—disguised, concealed, but transparent through the flimsy veil by which they attempt to conceal their nefarious purposes.

Now, Mr. President, this being the sole motive for which the North is struggling—the acquisition of power—will the Senate permit me to be so far wanting in respect for its intelligence as to say a few words in comparison of the interests which the South holds in this stake? Property, safety, honor—existence itself—depend on the decision of the questions which are now pending in this Congress: property, for \$2,000,000,000 cannot purchase, at a low average price, the slaves which now belong to the people of the South, whilst no human calculation can reach the estimate of the destruction of other property, which would necessarily be involved in any measure which should deprive us of our slaves; safety, because our population, now kept in proper subjection, peaceful and laborious, would be converted into an idle, reckless, criminal population, eager for rapine and murder, led on to their foul purposes by inflamed passions—passions inflamed by fanatical emissaries from another portion of a common country, who formed a common government to cherish brotherly feelings; honor, because we should be degraded from our position of free, sovereign, self-dependent States, into a servile subserviency to northern will; existence—ay, existence itself—because the history of Hayti is written in characters so black, so dark, so prominent, that we cannot be ignorant of the fate that awaits us if measures similar to those which have produced that result there are also to be inaugurated in our southern States.

Now, Mr. President, when we see these two interests contrasted—the North struggling for the possession of a power to which she has no legitimate claim under the constitution, for the sole purpose of abusing that power—the South struggling for property, honor, safety—all that is dear to man—tell me if the history of the world exhibits an example of a people occupying a more ennobling attitude than the people of the South? To vituperation they oppose calm reason. To menaces and threats of violence, and insulting assumptions of superiority, they disdain reply. To direct attacks on their rights or their honor, they appeal to the guarantees of the constitution; and when those guarantees shall fail, and not till then, will the injured, outraged South throw her sword into the scale of her rights, and appeal to the God of battles to do her justice. I say her sword, because I am not one of those who believe in the possibility of a peaceful disruption of the Union. It cannot come until every possible means of conciliation have been exhausted; it cannot come until every angry passion shall have been roused; it cannot come until brotherly feeling shall have been converted into deadly hate; and then, sir, with feelings embittered by the consciousness of injustice, or passions high-wrought and inflamed, dreadful will be the internecine war that must ensue.

Mr. President, amongst what I consider to be the most prominent dangers that now exist is the fact that the leaders of the republican party at the North have succeeded in persuading the masses of the North that there is no danger. They have finally so wrought upon the opinion of their own people at home by the constant iteration of the same false statements and the same false principles, that the people of the North cannot be made to believe that the South is in earnest, notwithstanding its calm and resolute determination which produces the quiet so ominous of evil if ever the clouds shall burst. The people of the North are taught to laugh at the danger of dissolution. One honorable senator is reported to have said, with exquisite amenity, that the South could not be kicked out of the Union. The honorable senator from New York says:

"The slaveholders, in spite of all their threats, are bound to it by the same bonds, and they are bound to it also by a bond *peculiarly their own—that of dependence on it for their own safety. Three millions of slaves are a hostile force constantly in their presence, in their very midst. The servile war is always the most fearful form of war. The world without sympathizes with the servile enemy. Against that war the American Union is the only defence of the slaveholders—their only protection. If ever they shall, in a season of madness, recede from that Union, and provoke that war, they will—soon come back again.*"

The honorable senator from Massachusetts [Mr. WILSON] indulges in the repetition of a figure of rhetoric that seems peculiarly to please his ear: and tickle his fancy. He represents the southern mother as clasping her infant to convulsive and closer embrace 'because the black avenger, with uplifted dagger, would beat the door, and he tells us that is a bond of union which we dare not violate.

The South has no answer to make to these taunts—to these insults. But I tell honorable senators that they are totally mistaken if they suppose for one moment that the condition of the South, as regards its slave property, would not be vastly ameliorated by this very separation of which they speak so glibly.

Sir, it was said the other day by my friend from Missouri, [Mr. GEYER] that there existed more comity between any two foreign nations now on the face of the earth than there exists on the part of the northern States towards the South. Why is this? It is because it does not cost the North one cent; it is because the North makes no sacrifice; it is because, disregarding the obligations of the constitution and treading them under foot, she dares to attack the honor and the interests of the South, which are protected by the provisions of that constitution, whilst the South, loyal to her duties and to her faith, is bound hand and foot by the same constitution, and prevented from making reprisals or evincing resentment.

But, sir, suppose these bonds were to fail for a moment—suppose this common compact once repudiated by all—think you that the North would be found pursuing this warfare upon the South? Think you that she would not be compelled immediately to ask us to accept treaties of extradition for our fugitive slaves? Think you she would not come and tender such treaties to us, and pass laws forbidding our slaves crossing their frontiers? Let me not be misunderstood. I am not here to pretend for a moment that the South is equal in population or military strength with the North. I do not refer to that at all. I speak of that compulsion which would be exercised upon the North by a regard to its own interests, by the necessity of avoiding the destruction of large commercial and manufacturing properties at the North.

Why, sir, if the people of New England had to pay a tax for every word they utter with a view of aggression upon the South, how many words would they utter? But that would be the case if there was a disruption. We should be compelled in self-defence to wage a continual unremitting war in which no sacrifice would be too costly, because we should be bound to it by all the bonds of which gentlemen have spoken; we never could abandon such a warfare, because our very safety and existence would be at stake. What would be the interest of the North? Would she pay tax after tax? Would she meet the expense of a dreadful war, continued through a long series of years, for the pleasure of exercising her philanthropic propensities in receiving some fugitive slaves? Not at all, sir. Those are ignorant of human nature who believe such a thing to be possible. Therefore, it is idle to talk to us about the risks we run in regard to our particular institution that would result from a disruption of the Union.

I see that my friend from New York is studying the law of nations. I will give him another little passage from Cooper's *Justinian* :

"Slavery is where one man is subjected to the dominion of another, according to the law of nations."

Mr. SEWARD. Have you no more ancient authority?

Mr. BENJAMIN. I give you the earliest and the latest.

Mr. SEWARD. I beg to correct the honorable senator. He did not read the whole of the passage. He ought to be candid, and read the whole sentence.

Mr. BENJAMIN. "Slavery is where one man is subjected to the dominion of another, according to the law of nations, though contrary to natural rights."

Mr. SEWARD. "Though contrary to natural rights."

Mr. BENJAMIN. The proposition of the senator from New York did not touch natural rights. He spoke of the law of nations.

Mr. President, one of the principal causes which operate in inducing the masses of the people in the North to sustain the leaders of the black republican cause is their ignorance of fact; their having been misled by so continuous, so persistent a perversion of truth on this subject, that they have finally been induced to hate white men and love black men in preference. If a traveller or a philosopher came to this country, and were desirous of ascertaining in what manner a body of nearly four millions of the people of the country were treated—whether they were well fed, well clothed, kindly treated; and exempted from suffering—to what source would that traveller, or that philosopher, if he were a man of intelligence, address himself for the purpose of arriving at a correct result? He would take the statistics of the country; he would say to himself, "All experience has proved that this rule is unbending—physical comfort and kind treatment will promote the increase of population, whilst the absence of that physical comfort,

want, or suffering, will produce the contrary result." Then, if he took up the statistics which the officers of this government have been paid so much money for collecting—most of whom have been employed from the northern States—he would find, strange as it may appear, that since the year 1810, at which period importations of slaves into this country had ceased, if you deduct from the white population its increase resulting from emigration, and if you add to the black population the decrease which has resulted from the emancipation of slaves, the ratio of the increase of slaves is greater than that of the whites.

Sir, the philosopher or traveller to whom I have referred would at once come to his conclusion and note it down as an established fact; but your black republican is not to be misled by any such chicanery as this! He has read in a novel the authentic fact that Mr. Legree whipped Uncle Tom to death, and that is a thousand times more satisfactory than any such foolish things as official documents.

Sir, we are told, "if, however, your negroes are so well treated, if the same humanity is displayed towards them as you wish to lead us to believe, why is it that so many of them run away?" I have looked to the census to find something on that point if I could, and I found that out of this population, one in twenty-seven hundred runs away. It struck me that it might perhaps be an interesting inquiry for our amiable philanthropic friends to ascertain whether, in their own beloved North, there might not be one restless man in twenty-seven hundred who would abandon even wife, children, and the comforts of home, whatever might be the comforts of his position; and go and seek some strange fortune elsewhere. If that be so, and if this calculation be not exaggerated, I do not think the fact of one in twenty-seven hundred running away amounts to a great deal towards proving that southern slaves are harshly treated.

But, sir, there is another significant fact to be found in that same census. The State of Massachusetts has opened wide her arms for the reception and proper entertainment, and admission to social and political privileges, of free colored persons. The State of Virginia thinks that class of population dangerous to her peace as long as slavery exists. Therefore, the State of Virginia, by a series of enactments of the severest character, is endeavoring to drive her free colored population out of the State. Here is the State of Virginia driving them out, the State of Massachusetts opening her arms for their reception; and yet these free colored people will pertinaciously and obstinately insist on remaining in Virginia, where colored people are badly treated, and even go as far, the wretches, as to apply to the Virginia legislature for permission to enslave themselves over again!

That appears in the statistics of the country; but all that is of no account whatever, because, if I remember aright, in that self-same novel we have the very authentic fact related of a colored woman's jumping across the Ohio river with her child in her arms—that outweighs ten thousand statistical documents or statistical deductions.

It is in this manner, Mr. President, that upon all occasions this subject is treated—no candor, no sincerity, no regard for facts, no hesitation at the enunciation of principles, whatever they may be, to suit the occasion—until the people of the North, misled—kindly in their feelings—having their sympathies aroused in behalf of these slaves, who are represented to them as victims of southern cruelty, have been almost led to hate the people of the South for their supposed inhumanity.

There is, however, one aspect of this subject of the treatment of slaves in the South which is not always regarded, and in relation to which it may perhaps be proper to refresh the memory of our northern friends. Even where those cases of whipping and ironing take place—which are pictured in such horrid colors, in such black deformity, to the people of the North—they are the exercise of a police magistracy over the slave. They are not the indulgence of any cruel propensities. The southern slaveholder is the magistrate of his slaves.

Let me illustrate what I mean by a single example. Let a southern slave on a plantation commit burglary; let him break open the cabin of another slave and steal his peculium—steal the little petty treasures that his fellow-slave may have accumulated in his cabin; his master, on discovering it, will order him to be whipped, and there the whole criminal procedure will have ended. If the same occurrence takes place at the North, between white persons, the man, if convicted, is sentenced to the penitentiary for a term of years. If it occurs in philanthropic England, the man—I believe, formerly would have been hung—but now he will simply be torn from wife, children, country, home, and friends. He will simply be manacled, and put in the hold of a convict ship. He will be transported at once thousands of miles across the water, and put in chains to cultivate a penal colony of Great Britain in the southern seas. Yet the American slaveholder who has had his slave whipped for breaking into and robbing the neighboring slave's cabin is held up to the gaze of the civilized world as a monster of guilt; while British philanthropy chuckles in self-complacency at its tender mercies towards the transported convict.

Mr. President, I have dwelt on this subject longer than I intended—not quite so long as my notes would justify me; but I do not feel able to continue to the end of what I had to say. Before I take my seat, however, I must trespass on the attention of the Senate for a few moments with an explanation of my political position, in order to avoid all misconception upon the subject.

When, in the month of January, 1852, I was honored by an election to a seat on this floor, there existed in this country but two great parties, divided in opinion upon political questions,

differing in their views as to the measures best calculated to promote the common interests of the country, but both united in a devotion to those common interests, both scorning, both rejecting with horror, any proposition tending to instil into the minds of the people the faintest suspicion that the powers of this government could be constitutionally wielded for the exclusive benefit of one section of the country to the exclusive detriment of another.

In the presidential contest which followed no man labored with better will or with more unwearied assiduity than I did in opposition to the election of the present Chief Magistrate. In doing this, I was but faithful to the political antecedents of my entire life—faithful to the principles of that glorious old whig party, which, in my judgment, was the true conservative party of the country, adhering to the traditions of the fathers, rejecting every innovation on their time-honored precepts, holding up the example of a Washington as the model of a wise administration of public affairs, and, whether victorious or vanquished, ever treading the path of duty with unfaltering courage, led by such men as their Clay and their Webster.

In that contest we were beaten—beaten by a majority almost unparalleled in our political annals. One of the principal causes of that defeat is but too well known. The masses of the people of this country could not overcome their invincible repugnance to voting for the gallant Scott, as soon as it was known that he was the favorite candidate of the honorable senator from New York. Rightly or wrongfully, justly or unjustly, that senator had succeeded in instilling into the minds of the people of fifteen States of this confederacy the deep-seated conviction that he was a most dangerous enemy to the harmony of the Union and to the perpetuity of its institutions. The bare suggestion that the election of the whig nominee would be followed by a perilous influence on his part over the councils of the administration sufficed to secure for the democratic nominee an almost undivided southern vote.

Sir, I do not speak my own convictions alone; I speak the convictions of almost every southern leader that I know when I say that a violent opposition on the part of that senator to the election of General Scott would have secured for him many electoral votes which were cast for his democratic rival.

When we met on this floor on the 4th of March, 1853, at the special session convoked by the new President, it became necessary to nominate committees for this body; and in the whig caucus which assembled for that purpose nineteen senators were present. It was a minority, indeed; but a minority whose attitude commanded the respect of even its political opponents. Gracefully yielding to the recently-expressed will of the people, yet watchful guardians of the principles of which they were the chosen expounders, they refrained from aught that could bear the semblance of factious opposition, but ever ready to sound the note of alarm whenever, in their judgment, the course or policy of the administration might threaten danger to the interests of the country.

This was the attitude of parties when the honorable senator from Illinois introduced into this body the bill for the organization of the Kansas and Nebraska Territories. Sir, no sooner had the discussion opened upon that bill than some startling developments took place. On an amendment offered to the bill by the honorable senator from Massachusetts, [Mr. SUMNER,] in which he proposed to strike out everything after the enacting clause, and to insert a provision for the repeal of the fugitive-slave law, six northern whig senators voted for the proposition. As the debates continued in both houses, and the contest grew hot, this further fact was developed—that there was not a member of the whig party North, in either branch, who did not believe in the power of Congress to legislate on the subject of slavery in the Territories, and who was not disposed to exercise that power to the exclusion of the South.

A vote like this, given with such unprecedented unanimity, could not be taken by the South for anything but the just reflex of the opinion of the constituency represented by those who were in Washington. The discovery of this fact, like the explosion of a mine, rent the whig party into fragments—fragments that no mortal skill can ever reunite, for the cement of a common principle is wanting.

Scarcely had that bill been passed when, amidst the turmoil and confusion created by the excited appeals addressed to northern passions and prejudices by those who assumed the leadership of the opposition to the bill, secret whispers began to be heard of some new organization that was to rise into power from the ruins of both the old parties. Mysterious movements attracted the curiosity of the people. An eager desire to learn what these movements meant operated on weak minds. The paraphernalia of grips and signs, and passwords and degrees, and lodges, tickled the vulgar fancy. Above all, the necessity felt for some central point around which, as a nucleus, all the scattered elements of the opposition to the administration could crystallize into shape or form, lent a sudden growth to the new organization. It became formidable. Reflecting men began to inquire what were its objects and purposes. When I returned home to Louisiana I found four-fifths of the whigs enrolled in its ranks; but yet my most earnest inquiry did not succeed in furnishing me information as to the principles of their lodges. Before I left Washington it had been said that Native Americanism was the leading principle of this party; but others assured me that this was but a mask, and I was told, from parties in whose judgment I had reliance, that the true parents of this new birth were New England prejudices against Catholicism and against slavery. I did not like the parent; I did not believe in the brood.

When in Louisiana these facts were suggested to the people, they were treated with scornful incredulity; and southern Catholics and southern slaveholders enrolled themselves by thou-

sands in the ranks of the new party. Fortunately for the good of the country, the sudden and overwhelming successes of the new party in some of the northern States emboldened it to throw off the mask; and in the celebrated Philadelphia convention the hideous features of this veiled prophet were displayed in all their naked deformity. There the entire Louisiana delegation were ignominiously expelled from the portals of the convention because they professed the Catholic religion. There, sir, it was openly avowed that the object of the organization was not simply to repeal or amend the naturalization laws for the future, but it was avowed that they intended to strike at rights already acquired; that their object was to divide the citizens of this country into two classes, unequal in their rights—a project as hostile to the true theory and principle of the constitution as is the present project of dividing the States into unequal classes.

There, sir, this party, misnamed “national,” after long, and angry, and violent debate, finally succeeded in adopting into the platform its celebrated twelfth section—a meagre recognition of southern rights, adopted almost exclusively by southern votes—scarcely adopted before it was repudiated by the protest of the northern delegates, followed by a repudiation of a majority of the northern lodges, who, in the stupid insolence of their temporary success, boasted that they did not want the South. They want it now, sir.

No sooner had the views and purposes of this party become displayed by the action of the Philadelphia convention, than my path of duty was clear. In an address to my constituents, I informed them of what I had heard before leaving Washington. I stated my belief that the machinery of the party would be used for the purpose of elevating to power the worst enemies of the South. I pointed out the hostility of the organization to southern rights; its hostility to freedom of conscience and religious belief. I went further, and expressed the conviction that the northern know-nothings would coalesce with the northern abolitionists, and that by their united action they would force on a crisis, on the result of which would depend the destiny of this country. I predicted that they would tack to the appropriation bills some abolitionist proviso which could not become a law without the instant disruption of the Union.

Several thousand whigs in my State took the same view of the condition of public affairs as I did. Some refrained from voting; others attended democratic meetings, advocated openly the success of the democratic ticket, and the result was a decisive democratic victory in the State of Louisiana. Time has yet to test the accuracy of my predictions about the appropriation bills. I may, however, be permitted to say that a speech has been publicly circulated, attributed to the honorable senator from New York, said to have been delivered by him in a meeting of his party, in which he threatens withholding supplies. I have upon my table a speech delivered in the other branch of Congress by another leader of the same party, in which I find this passage:

“I hope, for the ends of justice, and for the promotion of that peace which is the great desire of every patriot in the land, if the object cannot be otherwise secured, that we shall have a proviso appropriately placed on some of our appropriation bills, at the right time, restoring freedom to Kansas and Nebraska; and that there will be found nerve enough on the part of those gentlemen who talk loudly about freedom to stand by their colors. I fear, when the dollars and cents come in conflict with this *lip-love* of liberty, of which we have heard and read so much, there will be some yielding, because appropriations for some cherished object—some light-house or breakwater of *salt waves*, or something else—may be likely to misarry. But, if there be that nerve which there ought to be, we shall move the Executive and the Senate to a concurrence with the popular will on this subject; or, if they will not concur, *stop the supplies*. There is a constitutional remedy; no man can justly say that is revolutionary.”

Mr. BUTLER. Whose speech was that?

Mr. BENJAMIN. Mr. DUNN's, of Indiana. Mr. President, if further proof were wanting that I had not misconceived nor misstated the objects and purposes of the northern know-nothings, recent events again at Philadelphia afford the amplest justification for what I said to my people at home. Why, sir, they held a national council, and then they abolished the twelfth section, and the southern delegates retired; then they held a national convention, and nominated a candidate suited to the South, and the northern delegates retired.

In the earlier history of this Congress, during the unprecedented struggle for the organization of the other house, when every democratic vote, North and South, was given in solid column in support of the democratic nominee, not one northern know-nothing could be found ready to support a distinguished gentleman of their own party from the State of Kentucky of unquestioned ability to fulfil the duties of the office. Finally, on the last vote, which carried to the Speaker's chair a gentleman whose political principles are particularly obnoxious to the southern States, the northern and southern wings of this new party were as sharply divided and as hostile to each other as were ever two antagonistic parties in the history of the republic.

Mr. President, with what justice, with what propriety, can a party thus divided on sectional principles claim for itself the title of “national?” The continuance of its organization can do no good. It is powerless for aught but mischief. It may succeed now in subserving the purposes or promoting the interests of that party whose acknowledged leaders on this floor are the honorable senator from New York and the two honorable senators from Massachusetts—it can subserve no other purpose.

And now, sir, when the struggle is narrowed down to a contest between the democratic and republican parties, I should be recreant to my trust—recreant to every principle of duty, and feeling of patriotism—if I allowed my conduct to be influenced by the memory of past party ties, or past party prejudices. On that question, whose paramount importance overshadows all others, the democratic platform is identical with that of the old whig party; and, in declaring my adhesion to the former, I but change name, not principle. I, sir, therefore, declare my purpose to join the democratic party. I declare my intention to use the utmost efforts of my feeble abilities to insure its success. In its triumph—as triumph it assuredly will—the constitution of my country will be secured from the dangers with which it is menaced; kind and brotherly feelings amongst the people of all sections of the confederacy will be restored; religious intolerance will be rebuked; the equality of the States, the keystone of the arch of the governmental fabric, will be preserved intact; and peace, prosperity, and happiness will smile upon the land.

Although, in coming to this determination, after long and anxious deliberation, my own convictions alone would have sufficed to dictate my course, it would be uncandid for me not to say that I feel encouragement from the fact that other and abler and better men than I have taken the same view of their duty in this crisis which my own convictions have pointed out to me. From all parts of the country comes the cheering intelligence that gallant, and patriotic, and high-minded leaders of the old whig party, ever faithful to the conservative principles which they have professed, are rallying to the defence of the constitution from the attack of its fanatical assailants. On which side soever of this chamber I cast my eyes, I behold men whom the whig party ever delighted to honor, lending their courage and strength to the success of that common cause which we together have espoused. Sir, the end is not yet; others will follow. The time will come, and come very soon—sooner than they think. As the designs of the enemy become more and more developed, the patriot band will be augmented with fresh recruits. Yes, sir; let the note of alarm be sounded through the land; let the people only be informed; let them be told of the momentous crisis which is at hand; and they will rise in their might, and, placing their heel on the head of the serpent that has glided into their Eden, they will crush it to the earth, once and forever.

Mr. CASS. I rise for the purpose of asking the Senate to name a day next week on which I can express my views upon this question. I feel unwilling to obtrude myself on the Senate after the magnificent and patriotic speech which we have just heard from the senator from Louisiana, which does equal credit to his head and to his heart, and which, in my opinion, ought to find a response in the bosom of every true American.

Mr. SEWARD, after commenting on other portions of Mr. BENJAMIN's speech, continued as follows:

The next position which the honorable senator took was one in which he attempted to prove, with a vast flourish of triumph, that slavery was not an outlaw by the law of nations. Sitting, as I was, behind him, and shrinking from the arrows of his eloquence, he was not contented to allow me the repose which I coveted, and the security of being screened by his shadow from the view of the audience, but he flourished over me in triumph his demonstration that slavery was not an outlaw by the law of nations.

Well, sir, the honorable senator is a lawyer; I do not claim to be. I claim, however, to be a legislator and a senator, and to be so far informed concerning the law of nations as it is involved in the duties which I have to exercise here. Now for the honorable senator's authority. It is, first—and for this he is indebted to the honorable and esteemed senator from Georgia, [Mr. TOOMBS,] who furnished him with it on the spur of the moment—that of Justinian. The authority of the Emperor Justinian is brought into this court, in the year of our Lord 1856, to establish what is the law of nations; and yet Justinian wrote in the seventh century, and the laws which he promulgated were the laws of the Roman empire in its decline a thousand years ago, and the law of nations which he recognised, if he recognised any in his treatise, was the law of nations as it existed a thousand years ago.

Then the honorable senator has misunderstood even Justinian, for he quotes Justinian as saying that "slavery is when one man is subjected to the dominion of another, according to the law of nations, though contrary to natural right." Sir, the law of nations was the general effect and concert of the separate laws of separate nations as they separately existed, without any international understanding at the time when Justinian wrote. The law of nations of this age is an international law—a general law involving that same natural right to which Justinian, a thousand years ago, said that slavery was opposed, and making that a common universal code to be observed in the regulation of the intercourse between States.

The law of nations, then, which Justinian gives, consists of the laws of nations as they then existed. The law of nations of modern times is, as every jurist knows, an international law which has grown up by the agreement and concert of civilized nations, and has been adopted by them in their mutual intercourse; so that I think I may lay aside that book.

In the next place, the honorable senator has given me, not a treatise on the law of nations, not a code of international law of States as it now exists, but a *history* of the law of nations from the earliest times by Mr. Wheaton, and he has given me extracts from a judicial opinion quoted in the course of an argument, explaining the progress and history of the law of nations. Though I had not the time to examine that volume, the honorable senator was impatient; he declined to allow me the time; he pressed me when he saw that I was studying his history and

endeavoring to arrive at the result. Still, I have had time to refer to the law of nations, or the international law of nations, to speak more accurately, as it is recognised and established by the Supreme Court of the United States of America; and if the Supreme Court of the United States of America, constituted, as it is, with judges consisting as they do, so large a majority of whom are appointed at least with the complacency of the slave interest in this country, shall affirm slavery to be an outlaw, then I think I shall not need to go to the tribunals of England, France, and Germany for further authority on the present occasion.

Before I show what the Supreme Court of the United States have decided on this subject, I beg to show that what the honorable senator quoted was but a criticism, not on the question whether slavery was an outlaw, but whether the term "piratical outlaws" was accurately applied to slave-traders pursuing the slave trade in violation of the laws of the United States and of Great Britain. I find in one passage of this book—

"It is, therefore, a looseness of language, fatal to all accurate reasoning, to call slave-traders 'piratical outlaws,' and to assert that, for the sake of discovering and punishing these persons as offenders against the law of nations, a general right of search is to be assumed in time of peace."

The question discussed there was, whether a right of search existed by the law of nations to justify the search of vessels suspected of being slavers on the ground that slaves were piratical outlaws? This was held to be a loose expression. Sir, if I had used the expression that slavery was a piratical outlaw, I should have come within the scope of the authority which the honorable senator has given me; and still I should have been condemned by that authority only for a looseness of expression. Happily for myself on that occasion, I was not loose in my language.

Now, I beg to refer the honorable senator to the case of *La Jeune Eugénie*, (2d Mason's Report, p. 90,) which occurred in the year 1822; and I assume, until the contrary shall be proved, that the principle which was then established is the law of nations.

La Jeune Eugénie was a vessel sailing under a French flag and papers, which was captured by the American armed schooner *Aligator*, on the western coast of Africa, on suspicion of being engaged in the slave trade, and brought into the port of Boston, where she was libelled as an American vessel. The questions which arose in the case were—first, whether she was an American vessel; second, whether she was engaged in the slave trade; third, whether, if she were French, and engaged in the slave trade, the court was bound to restore the property to France without further inquiry. In the course of the judgment, the right of visitation, search, and seizure is discussed and asserted; but the great point of the case was that which arose under the third question, whether the African slave trade was contrary to the law of nations? It was held to be so, on the ground that it carried with it "a breach of all the moral duties, of all the maxims of justice, mercy, and humanity, and of the admitted rights which Christian nations now hold sacred in their intercourse with each other." On this point the judgment proceeds as follows:

Mr. SEWARD here read and commented on the judgment, and proceeded to say:

Sir, I have shown that Judge Story, alike an ornament and an expounder of the laws of nations, as well as of the public law of the United States, in this case pronounced this decision. No case to the contrary has been found, or will be found, wherein this opinion is declared to be otherwise than in harmony with the law of nations. I need not say that, even if our own courts had failed to recognise this principle, it would stand on the general consent now established by treaty among all nations in Christendom. There may be individual exceptions; but the general fact is, that the nations of Christendom have, long since the time of Justinian, and chiefly within the last one hundred years, come into conventions by which they pronounced slavery unlawful by their municipal laws, and agreed to condemn it; and many of the States of Europe agree to pronounce it piracy, punishable as an offence under the law of nations, while we ourselves have concurred in pronouncing it piracy, but have reserved to ourselves the right of jurisdiction in punishing the offenders among our own people. This is all that it seems to be necessary for me to say on the present occasion.

Mr. BENJAMIN. Mr. President, it is not my intention to continue this debate. I have seen in my day, in a court of justice, a defeated advocate resort to many a *ruse*; but I never saw a display, even by an advocate before a jury, equal to that which has just been given to us by the honorable senator from New York. What did that honorable senator start out to prove? He first commenced by ridiculing my quotation of an authority of the time of Justinian, although I passed it to him with the remark (when he suggested the fact that here was the doctrine of the law of nations in ancient times) that here, also, was the latest law on the subject, and that both established that his proposition, that slavery was an outlaw under the law of nations, was wrong. He gets up, sir, and, instead of openly avowing before the Senate that he was wrong—as he now knows—declares that he is going to prove, by reference to the decisions of the Supreme Court of the United States, that he is right. How does he prove that? I referred him to a decision of the Supreme Court of the United States, given in 1825 by a united court, Chief Justice Marshall the organ. He replies by giving me the decision of a circuit judge in 1822, three years earlier, and he reads from a book compiled by the son of that judge; and if he read a few lines further he would see that the author admits that his father's opinion was not sustained by the opinion of the Supreme Court of

the United States, and that it was not good law, but he hopes it will be so some day. Here it is. This book is not a law-book. It is "The Life and Letters of Joseph Story, by his son." In it the author says:

"This opinion was altogether in advance of the morals of the time. Broad and just as are the foundations on which it is built, it was nevertheless in contravention of the doctrine held by Sir William Scott in the case of the *Louis*, [2 Dodson's R., 210,] decided in the year 1817, and by Justices Bailey and Best, in the case of *Madrazo vs. Willis*, [3 Barn. and Ald. R., 353,] in the year 1820."

"The doctrine asserted in *La Jeune Eugénie*—
which the senator has read—

was not fully recognised by the Supreme Court of the United States in the subsequent case of the *Antelope*, [10 Wheat. R., 211]—
that is the case from which I read—

but its declaration by my father was an advancing step in international jurisprudence, and it is to be hoped that the time is at hand when it will be the acknowledged law of nations."

Now, what is to be said to that? While I am upon this subject, I may as well refer to the volume of Justinian. As the senator from New York remarks, the volume was passed to me by the senator from Georgia, [Mr. Toombs,] who called my attention to the subject, and I find that it is badly translated. Here is the original:

"*Servitus est constitutio juris gentium, qua quis dominio alieno contra naturam subicitur*—Servitude is a constitution of the law of nations by which a person is subjected to the dominion of another against nature."

Is it necessary for me to pursue this subject further, and to answer the entire tirade which the gentleman has given and read in relation to the horrors of slavery? for that seems to be his true object in getting up. He surely did not expect to deceive himself, or the Senate, by the declaration made in his opening, that he was going to refute me by quoting decisions of the Supreme Court of the United States, and then citing the decisions of one judge given prior to the decision which I had cited, and confessed by the author who narrates it to have been overruled by the subsequent decision. It is idle to pursue this subject further. The principles are too plain to be controverted.

Mr. HALE commented upon the admission of Mr. BENJAMIN, that the national whigs and democrats agreed on the slavery question, and proceeded to say:

I desire to say another word while I am occupying the floor, as I do not wish to speak again on this Kansas question. I hope that I shall not do so, and I have no doubt, Mr. President, that you hope so too. I certainly shall not speak on it again unless I am provoked to it. While I am up, however, I desire to say a single word in regard to another speech that was made on the other side of the chamber, a very considerable portion of which was devoted to me and to some friends who sit near me, personal in its character altogether. I cannot be provoked into such a contest as that. When a man comes at me with a speech utterly, totally, exclusively personal in its character—grossly so—I tell him that I cannot answer him; and he will find, I think, in his progress through life, that it will require something else besides malignity to redeem imbecility from contempt. That is all my answer to that.

But, sir, for the confession thus openly, thus publicly made, on which I have commented, I thank the senator from Louisiana, and congratulate my friends.

Mr. CLAY. Mr. President, I presume that the senator from New Hampshire intended, in his concluding remark, to allude to me. I wish him to answer now whether he did intend his remark for me.

Mr. HALE. I did, sir.

Mr. CLAY. You did, sir?

Mr. HALE. Yes, sir.

Mr. CLAY. Let me say to that senator, then, that I defy his malice as much as I condemn his baseness. Let me say to that senator that no man shall assail my rights or those of my constituents: their character or mine, and shirk responsibility by interposing the plea of non-combatancy. Sir, if he had been animated by those heroic feelings which he affects too poorly to deceive, he would not come upon this floor, and, under the protection of the rules of this body, seek immunity in his insolence. If he was that man of war which he modestly denies, while vainly trying to play that character; if he was as prompt to defend his honor and relieve his wrongs as he is keen to stimulate others by his incendiary appeals to violence and bloodshed, he would not have sought redress by words on this floor, where he is safe from personal injury. I will never permit his assaults without repelling them in the manner which he deserves, notwithstanding he does not admit his responsibility, and skulks behind petticoats, on the plea of non-combatancy, for protection.

Sir, I see that he is pleased by this attention. I know that there are those of his class who, like the pettifogger, Mark Middle, in the play of *London Assurance*, are ambitious of a kick-

ing. He sought it, while his imagination sported over suits, costs, and damages. Before the senator's mental vision, public trusts, honors, and offices arise as rewards for his self-abasement and humiliation. Sir, there are some who are willing to riot in infamy, who are willing to invoke contempt and obloquy, who are willing to submit to any debasement or degradation here for the poor triumph of promotion at home. He is one of that class; but I will teach him before we have been long associated on this floor, although I have twice declined his acquaintance, when sought by him, that he cannot assail me with impunity.

I have nothing more to say to that senator; and I beg pardon of the Senate for having consumed so much time on one who soils the carpet upon which he treads.

Mr. HALE. Mr. President, my answer was made before the speech was made, except in regard to one fact of which the senator has spoken. He says that I have sought his acquaintance, which he has repelled. I desire to state the whole facts in regard to that matter, and then, I think, we shall stand in a position satisfactory to both of us—certainly it will be satisfactory to me.

On one occasion, some years ago, there was a citizen of Alabama in this city prosecuting a claim before Congress to some considerable amount. He had retained to prosecute that claim an attorney residing in this District, and that attorney asked me, as I was a friend of his, to assist him somewhat, as I had the *entrée* on the floor, and I told him that I would do so. The senator from Alabama who has just taken his seat was then a member of the Committee of Claims, and this bill was referred to that committee. A citizen of Alabama was the claimant. I applied to the other senator from Alabama, [Mr. FITZPATRICK] whom I had known, he having been upon the floor of the Senate with me, and I told him that I desired to see his colleague upon a matter of business, and I asked him if he would do me the honor to introduce me to him. He said that he would go and see him. He came back, and told me that he declined. That is the only occasion when I ever sought any acquaintance with him, or any introduction to him, of any sort or kind, and then it was of a professional character, for a citizen of Alabama, on business before him as a member of the Senate, on which he declined to see me. Other than that I have never sought his acquaintance. I do not think I ever shall seek it, unless it should be in my power to do him some favor, which it is not very likely ever will be the case; but that is the only occasion on which I ever sought any introduction. The senator from Alabama who sits near me [Mr. FITZPATRICK] can bear witness to the truth of what I say in this respect.

Sir, it is not for me to boast and say that I do not seek the society of anybody. I seek the society of every gentleman who is willing to associate with me, and I so demean myself that nobody who is a gentleman declines it, unless under some misapprehension. But, sir, I do not think that the creative energy of Almighty power has ever been developed yet in making any man that I will look up to, or seek any elevation by associating with him; but I do not know what may be done in the future progress of creative power. I have no more to say in regard to anything that the senator has remarked.

Mr. CLAY. I am not going to bring private affairs before the Senate for decision; neither would I weigh my character for truth in the scales with that of the senator from New Hampshire. The man who will eat his own words in order to gratify his personal and political enmity, who will assume one proposition to-day and deny it to-morrow, with a view of traducing a political opponent; and who has done that publicly, as I have exposed in that senator's assaults here on the President of the United States—at one time assailing him for interposing in the affairs of Kansas, and again denying that he did interpose, and assailing him for not doing so—with such a man's word I know that mine will not suffer by comparison.

Mr. HALE. A single word will end this very promptly. The senator says that I eat my own words. I have only to reply that I think I shall have a much more palatable meal than he will have in eating his.

Mr. DOUGLAS. I desire to say to the Senate that I shall feel it to be my duty on next Thursday, after the senator from Michigan shall have concluded, to ask for a vote on this bill. I give this notice in order that those who wish to speak will be prepared to take the floor prior to that time.

Now, before I take my seat I have a word to say in good nature to the senator from New Hampshire. He has thanked the senator from Louisiana over and over again for the declaration that the whigs and democrats stand on the same platform in regard to the Nebraska bill and the question of slavery. He seems to be highly gratified that he has procured an admission from one senator that such is the case. Sir, if he choss he could call me as a witness to the same fact, for I have proven it before. I have already on former occasions adverted to the fact that both the whig and democratic parties in 1852 had the same platform on this question. The senator from New Hampshire comes forward now and congratulates the country on the fact that he has an admission that any whig must go for the Nebraska bill in order to carry out the principles which he held as a whig; and therefore he tells the senator from Ohio [Mr. WADE] that he betrayed the whig party, deserted its principles and its creed, when he opposed the Nebraska bill and joined in the republican movement. He tells the senator from Vermont [Mr. COLLAMER] that he, too, ceased to be a whig, and betrayed his party, and abandoned its principles, when he went into the republican movement, and that if he had remained a true whig, he must have gone with the senator from Louisiana, and joined the democratic party. He tells every old-line Henry Clay whig that if he wishes to be consistent, he must support

the democratic ticket. He tells every Webster whig that if he wishes to be consistent, he must support the democratic party on the Nebraska platform. If the senator from New Hampshire is prepared to thank the senator from Louisiana for that admission, I am prepared to thank the senator from New Hampshire for recognising its truth.

Sir, in 1852, whigs and democrats stood on the same great principle of State equality and self-government in the Territories, subject to the constitution. The Nebraska bill resulted from the principles affirmed in the compromise measures of 1850, and reaffirmed in the platform of the whigs and democrats. Hence, a whig, in order to be consistent with the platform of 1852, must act with the democratic party now in support of the same principle; and all men who go over to the black republican movement are deserters from their principles in 1852, whether they were then democrats or whigs.

I am glad that we have come to an agreement on both sides of the chamber on this point. There are some men claiming to be democrats, acting with the senator from New Hampshire, who will not deem it to be so palatable. There are some men, claiming to be true whigs, acting with him, who will not deem it so palatable; nevertheless, it is true, and therefore whigs and democrats should unite in the assertion of that great truth.

Sir, I did congratulate the senator from Louisiana on his speech to-day, because I saw that he had proved true to his principles, without reference to the name of the party with which he acted. His principles as an old-line whig compelled him to go with the democracy, for the reason that the democracy is now the only party in America which recognises the constitution as the supreme law of the land.

Mr. President, I shall not go further into the discussion at this time. I have deemed it necessary to notice this point in order that we may join our testimony to that truth which affords the senator from New Hampshire so much gratification. I now wish to repeat that I shall ask the Senate on Thursday next to proceed to vote on this bill.